

# Senate Budget & Fiscal Review

*Senator Wesley Chesbro, Chair*



## **Subcommittee No. 3 on Health, Human Services, Labor, & Veterans Affairs**

Senator Wesley Chesbro, Chair  
Senator Gilbert Cedillo  
Senator Tom McClintock  
Senator Bruce McPherson  
Senator Deborah Ortiz

May 12<sup>th</sup>, 2003  
1:30 PM  
Room 112

OPEN ISSUES  
(as noted)

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<u>Item</u>	<u>Description</u>
4440	Department of Mental Health-- <i>Selected Issues as Noted</i>
4300	Department of Developmental Services—Capital Outlay Issues Only
4260	Department of Health Services— <i>Selected Issues as Noted</i>

## **I. ITEMS RECOMMENDED FOR CONSENT (Items “A” through “B”)**

### **A. Department of Mental Health (Items 1 Through 5)**

#### **1. Reappropriation for Atascadero—New 250 Bed Extension for Penal Code Patients**

**Background and Budget Act of 1998:** Through the Budget Act of 1998, bonds funds were appropriated to construct a new 250-bed extension at Atascadero State Hospital in order to provide appropriate placement for mentally-ill penal code patients.

All of the construction has been completed and the DMH states they have been occupying some of the new units. However, there has been problems with leaks in some of the units. At this point in time it is unclear whether the leaks have been caused by poorly installed windows or from other design or construction problems. According to the DMH, the Department of General Services is working to discern the problem.

**Finance Letter Request:** The DMH is requesting to reappropriate \$181,000 (Public Building Fund), which is remaining from the original appropriation contained in the Budget Act of 1998, in order to address the concerns with the leaks. According to the DOF, the ability to spend the appropriation expires on June 30, 2003. This reappropriation will allow the funding to remain in place while a solution to the leaking is determined.

**Subcommittee Comment:** No issues have been raised.

**Budget Issue:** Does the Subcommittee want to adopt the Finance Letter?

#### **2. Metropolitan State Hospital Kitchen Project**

**Background and Governor’s Budget Request:** The current kitchen facilities at Metropolitan State Hospital were constructed in the 1950’s and have not had any major renovations since then. A DGS report concluded that the existing central kitchen should be replaced and the satellite serving kitchens should be renovated to bring the hospital’s food service up to current technology. In addition it has been found that the existing kitchen building has a Risk Level V rating which means it is in dire need for a seismic retrofit.

The Governor’s budget proposes an appropriation of \$18.7 million (Public Building Fund) for preliminary plans, drawings and construction of a new central kitchen and the renovation of the existing satellite serving kitchens at Metropolitan State Hospital.

**Legislative Analyst’s Office Recommendation:** The LAO Capital Outlay section recommends approval of the project with the following Budget Bill Language:

“The Department of Finance will provide written notification to the Joint Legislative Budget Committee, within ten days of receipt, of any requests for an augmentation of project costs, change in project scope, and any requested change in project schedule, for projects identified in Schedule 2.”

The LAO believes this language is necessary in order to ensure Legislative oversight of the project.

**Budget Issue:** Does the Subcommittee want to adopt the proposal along with the recommended Budget Bill Language (as noted above)?

### **3. Federal Projects for Assistance in Transition from Homelessness (PATH) Grant**

**Background:** Since 1985, the DMH has been awarded federal funds through the Projects for Assistance in Transition from Homeless (PATH) to assist individuals with severe mental illness who are homeless. These funds are allocated to counties who choose to participate (about 45). Each county expends funds based on an annual service plan and budget. Allowable services include (1) habilitation and rehabilitation, (2) alcohol and other drug treatment, (3) housing services, (4) supportive services in residential settings, primary service referrals, (5) outreach, and (6) service coordination.

The Budget Act of 2002 provided \$5.5 million (federal funds) for PATH of which \$1.334 million was specifically earmarked for supportive housing demonstration projects. After administrative costs of \$109,000, the remaining amount of about \$4 million was allocated to 45 counties that elected to participate in PATH. Counties receiving PATH funds must annually develop a service plan and budget for utilization of the funds.

**According to the DMH, smaller PATH-funded counties have voiced concerns over the significant reporting and program requirements mandated by the federal government. Recently, two counties have elected to discontinue applying for PATH funding due to these concerns. Therefore, the DMH is proposing to relieve the smaller counties of administrative and reporting requirements by replacing PATH funds with more flexible federal SAMHSA block grant funds.**

**Finance Letter Request:** The DMH is requesting an increase of \$256,000 (federal PATH funds) to reflect the receipt of additional federal funds and to modify how it operates the PATH Program. Specifically, the DMH is proposing that each county currently receiving less than \$10,000 from the federal PATH grant (eight counties in all) have their funding shifted to federal SAMHSA block grant funding (same amount). This would provide more flexibility for the smaller counties, less reporting requirements and an adequate base allocation.

The remaining 37 PATH-funded counties (receiving over \$10,000) would be allocated the \$256,000 increase based on the Cigarette and Tobacco Surtax formula. (This formula has been in existing since 1989 and is still used to allocate some mental health funds even though there is no longer any Proposition 99 funds provided to county mental health; these funds were discontinued in 1993/94.)

**Subcommittee Comment:** No issues have been raise by this proposal.

**Budget Issue:** Does the Subcommittee want to adopt the Finance Letter?

#### **4. Early Mental Health (Proposition 98 Funding)**

**Background:** Under the Early Mental Health Initiative, the state awards grants (for up to three-years) to Local Education Agencies (LEAs) to implement early mental health intervention and prevention programs for students in Kindergarten through Third Grade. Schools that receive grants must also provide at least a 50 percent match to the funding provided by the DMH. Schools use the funds to employ child aides who work with students to enhance the student's social and emotional development.

Students in the program are generally experiencing mild to moderate school adjustment difficulties. Students must have parental permission to participate in the program. In addition, all Early Mental Health Initiative programs are required to contract with a local mental health agency for referral of students whose needs exceed the service level provided in this program.

The Early Mental Health Initiative is an effective school-based program. **It serves children experiencing school adjustment issues who are *not* otherwise eligible for special education assistance or county mental health services because the student's condition is usually not severe enough to meet the eligibility criteria in these other programs (such as the Children's System of Care Program or EPSDT services).**

**Under the current budget year, 78 programs are in their first year of the grant cycle, 65 programs are in the second year and 63 programs are in their third year (i.e., ending as of June 30, 2002).**

**Governor's Mid-Year Reduction Proposal:** The Administration proposed to revert \$549,000 (Proposition 98 General Fund) in **unexpended** funds in 2002-03 and to eliminate the program in 2003-04 for savings of \$15 million (Proposition 98 General Fund). **The Legislature adopted the Mid-Year Reduction of \$549,000 (Proposition 98 General Fund) but deferred action on the budget year proposal.**

**Governor's Proposed Budget:** The budget proposes to eliminate the Early Mental Health Initiative for savings of \$15 million (Proposition 98 General Fund).

**SB 26(x)—Modified Statute:** At the request of the Administration, Chapter 9, Statutes of 2002, modified the existing Early Mental Health Program statute to make funding contingent upon appropriation in the annual Budget Act or other statute. As such, this change in effect provides the Governor with the ability to reduce or veto funds appropriated by the Legislature for the program.

**Staff Comment and Recommendation:** Both the short-term and long-term effect of this reduction is that children with mild to moderate school adjustment problems will likely not receive services and may, as a consequence, need more intensive services later. **Further, these students may end up doing poorly in school and developing other problems.**

For the budget year (2003-04), 78 programs of the programs would be moving into their second year of the grant cycle, and 65 programs would be moving into the third year. According to the

DMH, it would cost \$5.2 million to continue the 78 programs, and \$4.8 million to continue the 65 programs, for a total of \$10 million (Proposition 98-General Fund). **As such, it is suggested to provide \$10 million (Proposition 98-General Fund) to continue these programs into the budget year. This will enable the program to proceed with completing the three-year cycle.**

**If the DMH needs staff to process the grant applications, they should temporarily redirect positions from within existing resources as needed.**

**Budget Issue:** Does the Subcommittee want to provide a \$10 million (Proposition 98-General Fund) increase to continue the Early Mental Health Program to continue funding for the schools that will be in the second and third year grant cycles?

## **5. Crime Victims with Disabilities Program**

**Background and Governor's Proposed Budget:** The Budget Act of 2000 implemented a new program—Crime Victims with Disabilities. The purpose of the program was to employ crime victim specialists who would be responsible for crime prevention efforts, encourage County Mental Health Plans to include a personal safety component in their treatment planning process and to provide some trainings on the topic of crimes against individuals with disabilities to various departmental staff within the CHHS Agency.

**The Governor is proposing to eliminate the program since the Crime Victims Restitution Fund which was funding the program is now running a deficit. As such, the DMH is requesting to eliminate the program.**

**Subcommittee Comment:** No issues have been raised by this proposal.

## **B. Department of Developmental Services**

### **1. Porterville Developmental Center—96-Bed Expansion for Forensic Population**

**Governor's Budget & Finance Letter:** The Governor's January budget included \$44.5 million (Public Building Construction Fund) for the planning and construction of six 16-bed residential units, a protective services facility, and related security improvements for the Secured Treatment Program at Porterville DC. This proposal also includes an extension of the perimeter security equipment, new water well, emergency generator building, and related site work. Currently, the Secure Treatment Program is at full capacity and based on the DDS' projections of the forensic/severe behavioral population, 96 additional beds will be needed over the next five years.

**In addition, the Governor's January budget proposed expenditures of \$5.7 million (Public Building Construction Fund) for the planning and construction of a recreational center within the Secured Treatment Program fenced area at Porterville.**

**A Finance Letter which proposes an adjustment of about \$13.1 million (Public Building Construction Fund) to reflect final budget package costs has also been proposed.** This consists of an additional \$752,000 for a recreational complex at Porterville, as well as an adjustment of \$12.3 million for the preliminary plans, working drawings and construction of the 96-bed facility.

**Legislative Analyst's Office—Recommended Budget Bill Language:** The LAO Capital Outlay Section concurs with the need for the project and is recommending the following Budget Bill Language in order to try and meet federal requirements:

"It is the intent of the Legislature that the 96-bed Forensic Residential Expansion and Forensic Recreation and Activity Center projects at the Porterville Developmental Center be completed in a manner that would support the Department's efforts to secure federal Medicaid certification and the recovery of federal Medicaid reimbursements. The Department of Developmental Services is to make every effort to secure federal certification of the forensic facilities at the Porterville Developmental Center."

**Budget Issue:** Does the Subcommittee want to adopt the Governor's budget and Finance Letter, as well as the recommended LAO language?

## **C. Department of Health Services**

### **1. Phase II of Richmond Laboratory**

**Background and Finance Letter Request:** Phase II of the Richmond Laboratory will be about 330,000 square feet and will house 425 staff. The current project cost is \$108.7 million (Public Construction Bond Funding).

According to the DHS, schedule delays have extended the original contract completion from January 2002 to June 2003, or perhaps later. The liquidation period for the original construction funding authority expires as of June 30, 2003. Although the DHS will occupy the majority of the facilities by June 30<sup>th</sup>, actual completion and closeout of the work, settlement of any disputes and potential claims, as well as final payment, will take beyond that date. In addition, the DGS has determined that the original contractor needs to make some design changes that were omitted from the construction documents.

**As such, the Administration is requesting to provide for reappropriation authority of \$13.1 million (Public Buildings Construction Fund) to extend the liquidation period of the original construction appropriation.** (The original appropriation was contained in the Budget Act of 1998.) **The \$13.1 million represents \$6.6 million that is already authorized to DGS for expenditure and remains unliquidated, and \$6.5 million in bid savings remaining in the appropriation that may be required for future projects on this Phase II.**

**Subcommittee Staff Comment:** No issues have been raised.

## **II. ITEMS FOR DISCUSSION—DEPARTMENT OF HEALTH SERVICES**

### **1. DHS Report Regarding Nursing Home Liability Insurance**

**Background:** Through the omnibus health trailer bill (AB 430, Statutes of 2001) that accompanied the Budget Act of 2001, **the DHS was directed to convene a workgroup** with the Department of Insurance, the Office of Statewide Health Planning and Development, and the Department of Finance **regarding general liability and professional liability insurance for long-term care providers in California.**

**From the deliberations of this workgroup, and related information, the DHS was to submit a report to the Legislature by no later than March 1, 2002. This report has yet to be provided one-year later.**

**The report on liability insurance for long-term care providers is to focus on elements that include:**

- (1) the number and cost of claims and trends;
- (2) trends in average long-term care liability premiums;
- (3) projections on future cost of claims and premiums based on past and current loss experience;
- (4) identification of the factors contributing to trends in claims, costs, and premiums related to general liability and professional liability insurance for long-term care providers; and
- (5) related other factors.

**The Subcommittee is in receipt of a letter from Senator Johnson who has requested the Chair to query the DHS on the status of the report and when it will be provided to the Legislature.**

**Subcommittee Chair's Request:** Senator Chesbro has asked the DHS to respond to the following questions:

- 1. Did the workgroup discussions occur?
- 2. Has the report been drafted?
- 3. When will the report be provided to the Legislature?
- 4. Can a draft report be provided during the interim?

## **2. Maternal & Child Health—Perinatal Profiles Funding**

**Background:** The Perinatal Profiles Project is an essential element in California's improvement in (1) reducing very low-birth weight births, and (2) improving the numbers of women receiving prenatal care in the first trimester.

The DHS notes that the Perinatal Profiles are the **only state quality improvement tool which allows hospitals to review their perinatal outcomes and compare them to comparable-level facilities and to the region, as well as the state.**

The Perinatal Profiles are developed from data on the Birth Cohort file (birth file linked with death files). **They provide facility-specific, risk-adjusted fetal and neonatal mortality rates and other perinatal data for each of the 300 plus delivery hospital and birthing facilities in the state.** Each facility is mailed its own (confidential) data, and statistical data on other comparable-level facilities in the state as well as regional and statewide data. **Since the Profiles are confidential, scientific and risk-adjusted, hospitals have been receptive to making necessary changes to improve performance and obtain better birth outcomes.**

**Regional Perinatal Program nursing staff use the Profiles to provide hospitals with guidance and supplemental education to improve their performance.**

**It is presently funded at \$200,000 (California Health Data and Planning Fund) in the current year.**

**Budget Act of 2002:** In the Budget Act of 2002 and accompanying trailer bill legislation, the project was shifted from using federal Title V funds to using the California Health Data and Planning Fund for one-year. The California Health Data and Planning Fund is a fee-supported fund whereby hospitals pay a fee to the state Office of Statewide Health Planning Department and the funds are used to analyze a wide variety of hospital data.

**Governor's Proposed Budget:** The Governor's budget proposes to eliminate the Perinatal Profiles project for the budget year.

**Subcommittee Staff Recommendation:** In an effort to maintain the Perinatal Profiles Project, it is recommended to **adopt trailer bill language to continue to use \$200,000 from the California Health Data and Planning Fund on an ongoing basis.**

**The suggested trailer bill language is as follows:**

Amend Section 127280.1 of the Health and Safety Code as follows:

Notwithstanding any other provision of law, up to two hundred thousand dollars (\$200,000) of the moneys collected pursuant to Section 127280 may be used ~~in the 2002-03 fiscal year~~ by the State Department of Health Services for data collection on, analysis of, and reporting on, maternal and perinatal outcomes, if funds are appropriated in the Budget Act.

**According to the Governor’s Fund Condition Statement for the California Health Data and Planning Fund, there will be about \$4.1 million in reserve for 2003-04. As such, a \$200,000 allocation can easily be provided by the special fund.** Further, the data being collected for this project is directly pertinent to hospitals. Therefore, use of the special fund makes programmatic sense, and is a reason why it was used last year.

**Subcommittee Request and Questions:** The Subcommittee has requested the DHS to respond to the following question:

- 1. DHS, please briefly describe the Perinatal Profiles Project.
- 2. DHS, from a technical assistance basis, has the Perinatal Profiles Project been useful?
- 3. DHS, are these Profiles needed **in order for the state to provide some of the data required for the state to receive its federal Title V Maternal and Child Health block grant funds?**

**Budget Issue:** Does the Subcommittee want to adopt trailer bill language as shown and provide \$200,000 from the California Health Data and Planning Fund to continue the Perinatal Profiles Project?

### **3. Medi-Cal Managed Care Program—Proposed Quality Assessment Fee**

**Background:** California utilizes several Medi-Cal Managed Care models for the delivery of health care services, including County Organized Health Care Systems (COHS), the Two Plan model (local initiatives and commercial HMOs), and Geographic Managed Care. The DHS **presently contracts with 31 health plans, many of which are considered *non-public* agencies.**

Under both state and federal requirements, the capitation rates paid under a managed care model must be below the fee-for-service cost equivalent. **The rates paid to Medi-Cal Managed Care plans have been frozen for the past two years and as noted below, the Governor’s January budget proposes to reduce these rates by 15 percent for savings of \$423 million (\$211.5 million General Fund).**

Under the authority of the Social Security Act, Title 19, Section 1903(w)(7)(A), the state may impose a “quality assessment fee” on managed care contracts providing services under the Medicaid Program (Medi-Cal in California). **This mechanism can be used to then draw down additional federal funds.**

**Governor’s Budget and Finance Letter:** The Governor’s January budget **proposes to save about \$422 million (\$211 million General Fund) by reducing the rates paid to Medi-Cal Managed Care plans by 15 percent across-the-board. (The Subcommittee has deferred a**

*decision on this rate reduction, as well as the other services affected by the proposed rate reduction, until the Governor's May Revision.)*

In addition, a Finance Letter proposes to implement by *January 1, 2004*, a quality assurance fee for Medi-Cal Managed Care plans as allowed for in federal law. Under this proposal, the DHS would assess a quality assurance fee of 6 percent on all Medi-Cal Managed Care plans. The amount actual paid by each plan would vary, depending on their gross Medi-Cal revenue.

The quality assessment fee would then be used to (1) obtain increased federal funds to provide a rate adjustment for Medical Managed Care plans, and (2) obtain increased funds to offset about \$37.5 million in General Fund support.

Based upon preliminary information provided by the DHS, the fiscal arrangement would be as follows:

- 6 percent fee paid by the plans = \$150 million in revenues
- State uses 25 percent of \$150 million to backfill for GF = \$37.5 million (GF savings)
- State obtains federal match on remaining \$112.5 million = \$225 million available for use
- State provides plans with rate adjustment = \$225 million
- *Net amount* (6% fee paid versus rate adjustment) *to the plans* = \$75 million (net gained--plans)
- The DHS will need to modify the state's existing Medi-Cal "Upper Payment Level" in order to make these funds available to the plans. The DHS would then distribute the "Upper Payment Level" amount to the various Two-Plan Model entities based on the existing DHS rate model that recognizes the cost of providing services in the county, and the plans acuity mix. For Geographic Managed Care Organizations and County Organized Health Care Systems (COHS), the California Medical Assistance Commission (CMAC) would allocate the funds through their existing contract process. In addition, the AIDS Health Care Foundation (as a primary care case management entity) would also be included in the quality assessment fee process.

Through the Finance Letter, the DHS is requesting an increase of \$196,000 (\$97,000 General Fund) to fund three DHS positions to implement the proposal. Specifically, the DHS is requesting two Account I Specialists and one Account Officer to conduct activities associated with quality assurance fee implementation.

**Subcommittee Staff Comment—Need Additional Information:** This proposed quality assurance fee for Medi-Cal Managed Care plans parallels the Administration's proposal for implementing a quality assurance fee for Intermediate Care Facilities--Developmentally Disabled (ICF-DD) which the Subcommittee has already reviewed. **Several states have been using quality assurance fees to assist in making Medicaid program improvements for several years.**

Conceptually, implementation of a quality assurance fee for Medi-Cal Managed Care plans makes sense. However, it is recommended for the Subcommittee to withhold action on this proposal pending May Revision for the following reasons. First, the Administration has

**not yet provided the Legislature with the proposed trailer bill language.** The language is needed in order to clarify how the proposal will be implemented, including the assessment and collection of the fee, and its allocation back to the plans. **The Administration has said it will provide the language at the May Revision.**

**Second**, the quality assessment fee **fiscal information is preliminary.** The DHS is in the process of obtaining more information from its fiscal actuary, as well as in the middle of making other technical adjustments (such as caseload) that will be forthcoming at the Governor's May Revision.

**Subcommittee Request and Questions:** The Subcommittee has requested the DHS to respond to the following questions:

- **1. Please briefly describe the proposal to implement a quality assessment fee for Medi-Cal Managed Care plans.**
- **2. Generally, how would the fees be collected from, and then allocated back, to the plans?**
- **3. Please briefly describe the need for the positions.**
- **4. Are the three requested positions be funded from the revenues obtained from the Medi-Cal Managed Care plans (along with the federal match) or are they funded using the portion of revenues the state receives as a General Fund backfill?**

**Budget Issue:** Does the Subcommittee want to withhold action on this item pending receipt of the May Revision and more information—language and fiscal detail?

#### **4. Discussion Regarding Adult Day Health Care (ADHC) (Informational Item)**

**Background—What is Adult Day Health Care:** Adult Day Health Care (ADHC) is a community-based day program which provides nursing, physical therapy, occupational therapy, speech therapy, meals transportation, social services, personal care, activities and supervision designed for low-income elders and younger disabled adults who are at risk for being placed in a nursing home.

**ADHC has been a successful model for elderly individuals for they can obtain many services in one location.** For these individuals, particularly those with mobility challenges, going to one place for health care results in better compliance with therapy, medication, nutrition, and exercise regimens. **Under Medi-Cal, individuals can participate in ADHC from one to five days per week, but usually average about three days a week.**

**The general concept behind providing ADHC services is that they delay or defer individuals from going into nursing homes or other more costly forms of care and**

**therefore, it saves Medi-Cal money.** Compared to the monthly Medi-Cal cost of a nursing home at about \$3,400 per month, ADHC can cost as much as three to four times less.

**According to data obtained from the California Association for Adult Day Services, generally ADHC participants can be described as follows:**

- All participants have functional impairments that require supervision or assistance.
- 93 percent of all ADHC participants are Medi-Cal recipients.
- All individuals attending ADHC must be approved by a Medi-Cal field office using a “treatment authorization process (TAR) in order for the ADHC facility to receive Medi-Cal reimbursement for the individual.
- 53 percent have at least three or more medical diagnoses, such as cardiovascular disease, dementia, diabetes, stroke and mental illness.
- 64 percent are female
- 50 percent are over the age of 75 years with the average age being 78 years

**Background—How is ADHC Eligibility Determined (See Hand Out):** As noted in the Hand Out, there is a **formal intake and assessment process** to initially determine whether an individual would benefit from the ADHC services. If an individual is accepted for enrollment into the ADHC, a team meeting is convened and an **Individual Plan of Care is crafted.**

**All individuals attending ADHC must be approved by a Medi-Cal field office using a “treatment authorization process (TAR) in order for the ADHC facility to receive Medi-Cal reimbursement for the individual.**

**Background—ADHC Facility Application Process (See Hand Out):** In order to become an ADHC provider, there are many steps that are required to be met, including the following:

- Complete a prospective **Provider Application** and submit to the state in order to obtain licensing and certification approval (DHS and CDA reviews).
- **Obtain a facility site and secure qualified staff** in preparation of obtaining approval.
- Undergo a local planning council review to ensure if there is a need in the service area.
- **Field work is completed by the state and licensing and certification is approved.** The applicant is now a certified Medi-Cal provider.

**Background—How is the ADHC Funded:** The ADHC Program is funded through Medi-Cal. Based on the Governor’s January budget, **California is slated to expend \$305.3 million (\$152.6 million General Fund) in 2003-04. This DHS fiscal project assumes the following:**

- Average cost per participant is about \$777 per month (based on recent three-month average).
- Total actual participants as of June 2002 is 22,411 participants.
- Total projected participants as of June 2003 (beginning of the 2003-04 budget year) is about 29,000.
- Total projected participants as of June 2004 (end of the 2003-04 budget year) is about 36,000.

**Recent Concerns with ADHC Growth:** Both the DHS and the California Association for Adult Day Services (Association) have noted that the ADHC Program began to grow in 1999 after many years of exceedingly slow growth. **Generally, some of the reasons for this growth included:** **(1)** changes in the state’s aging and immigrant demographics, and **(2)** the lifting of statutory restrictions against “for profit” ADHC providers. The area of most rapid growth has been in Los Angeles County where there are larger concentrations of Medi-Cal recipients (about 28 percent or so statewide).

**The Association believes that the state was not prepared to respond to the consumer and provider demand. They contend that the state’s regulatory system, including licensing and certification procedures, needs to be adjusted to reflect the demographic needs of California’s older population and the changing competitive healthcare environment.**

**The DHS has conveyed that there maybe some unscrupulous ADHC providers who have expanded their services beyond the need of the demographics in certain areas.**

**Legislative Analyst’s Office Option:** As one of their “options” the LAO has proposes for the DHS to place a moratorium on approving new Adult Day Health Centers. They contend that savings of \$60.2 million (\$30.1 million General Fund) can be achieved in 2003-04 by slowing the rapid growth which they say has been occurring in the number of Adult Day Health Centers.

**California Association for Adult Day Services—Option for Managed Growth:** The Association has crafted a proposal **which is generally intended to (1)** strengthen ADHC services as a community-based alternative to institutional placement (such as nursing homes) **(2)** modernize the licensing and certification process, and **(3)** strengthen authority for planning and prioritizing new ADHC sites. Through this proposal, the Association intends to manage and control the growth of new sites. **The Association is also the sponsor of SB 428 (Perata), as amended, which contains some of the components of this “Managed Growth” proposal.**

**Key aspects of the Association’s proposal includes the following:**

- **Creates a “Pre-Certification” process that would:** **(1)** require the Applicant to attend a **mandatory orientation course** offered by the state (CDA) or a contractor prior to obtaining and submitting an application; **(2)** require the Applicant to submit their application **along with a letter detailing the need for the services** in the geographic area; **(3)** require the CDA to conduct a face-to-face interview with the Applicant. Under this process, the CDA will have authority to prioritize applicants based on need factors and the department’s estimation of the providers readiness. The CDA would notify the applicant of the potential timeframe for application processing.
- **Proceed with Facility Licensing:** After the Pre-Certification is complete, the Applicant would comply with the remaining requirements for the licensing process, including the identification of the facility site, submission of fingerprint cards and all health and safety rules. The Applicant would then proceed through the regular DHS licensing field office inspection.

**The Association maintains that by placing requirements up-front, it will improve the application process, slow the growth of demand in areas that may not have a fully identified need for the services, and is an overall better use of state resources.**

**Subcommittee Request and Questions:** The Subcommittee has requested responses to the following questions:

- 1. **LAO**, please describe your option for imposing a moratorium on licensing Adult Day Health Centers.
- 2. **LAO**, how could a moratorium affect the state's implementation of the Olmstead Decision?
- 3. **DHS**, what is your perspective of the growth pattern regarding ADHC services?
- 4. **DHS**, please comment on the concept of imposing a moratorium.
- 5. **CA Association for Adult Day Services**, please provide your perspective of what a moratorium could mean.
- 6. **CA Association for Adult Day Services**, please present your managed growth proposal.
- 7. **DHS**, do you have any comments regarding the proposal?

## **5. Discussion Regarding Disease Management (Informational Item)**

**Background:** Existing state statute defines “disease management programs and services” as services administered to patients in order to improve their overall health and to prevent clinical exacerbations and complications utilizing cost-effective, evidence-based, or consensus-based practice guidelines and patient self-management strategies. Existing statute defines a “disease management organization” as an entity that provides disease management programs and services, which contracts with any of the following: a health care service plan; a contractor of a health care service plan; an employer; a publicly financed health care program, or a government agency.

**Disease management is a strategy to get individuals to take better care of their chronic health conditions.** Such a program can improve the quality of life of patients by catching health-related problems early, enabling patients to subsequently avoid high cost medical treatments and procedures—especially those associated with hospitalizations.

**The expansion of disease management programs is a nationwide trend.** About 25 states have initiated disease management efforts in some form—either in their commercial market and/or in their Medicaid Program (such as Washington state, Colorado, Oregon, Missouri and others). The federal CMS has obtained Congressional approval to implement large scale demonstration projects with Medicare and Medicare/Medicaid dual eligible populations with chronic disease. **In addition, CalPERS is moving to implement a disease management program as well this upcoming year.**

Comprehensive disease management programs that assist people with the management of their chronic diseases have demonstrated their effectiveness in improving health status and patient and

health care provider satisfaction. These programs have demonstrated their effectiveness in reducing the unnecessary utilization of health care services associated with caring for populations with chronic illness. **Evidence of the efficacy of these programs has been shown for a variety of chronic conditions including diabetes, coronary artery disease, chronic obstructive pulmonary disease, asthma, renal disease and other chronic illnesses.**

**Many states that have implemented disease management programs for their Medicaid populations have included provisions for “guaranteed financial savings” to ensure that they are either budget neutral, or reduce costs.** Under these arrangements, if net savings to the state are not achieved, the disease management program must refund a certain amount of the fees paid by the state. Third party auditors or evaluation firms are usually hired by states to verify or conduct this reconciliation.

**It should also be noted that SB 323 (Soto) has been introduced to require the DHS to develop a strategy for providing Medi-Cal recipients with population-based disease management programs and services, and to seek all necessary federal CMS Waivers that would be needed to implement such a program. The bill was heard in the Senate Health and Human Services Committee and is now on the suspense file in Senate Appropriations.**

**Finally, it should be noted that Medi-Cal will expend about \$13.7 million (total funds) on about 1.5 million Aged, Blind and Disabled Medi-Cal eligibles in the current-year. Many of these eligibles could be enrolled in a disease management program, if available.**

**Legislative Analyst’s Office Comment:** The LAO states that implementation of a disease management program for selected Medi-Cal recipients could result in significant savings by reducing the number of emergency visits or hospital stays of Medi-Cal recipients. They maintain that studies indicate that costs related to chronic conditions could be reduced by as much as 50 percent. These savings would be partly offset by the cost of disease management services.

**The LAO notes that any disease management program for this population (i.e., Aged, Blind and Disabled eligibles) would need to be carefully designed in order to maintain or improve the health of patients, and to ensure cost efficiencies and savings.**

The LAO estimates that it could cost about \$360,000 (total funds) to implement a program and that cost savings could range from 1 percent to 9 percent **for overall net savings of from \$27 million (General Fund) to \$241 million (General Fund) beginning in 2004-05.** They contend that disease management programs often require a significant up-front investment of resources for chronic care management services that offset potential savings in the short run.

**Subcommittee Staff Comment:** As noted by SB 323 (Soto), other state’s experiences, the LAO and others, disease management programs can be very efficacious for individuals with chronic health conditions, as well as cost-beneficial for health care programs. **It should be noted that if implemented for the Medi-Cal Program, the DHS will need to obtain a federal Waiver as well as craft a pilot program. Trailer bill language would be needed to provide a programmatic framework and should contain an evaluation component.**

**Subcommittee Request and Questions:** The Subcommittee has requested **the DHS** to respond to the following questions:

- **1.** Please **comment on the potential application of disease management** programs to the Medi-Cal Program. What disease management approach or models may be applicable?
- **2.** From a technical assistance standpoint, what would the DHS need to generally do to implement such a program?
- **3.** **Generally, what potential savings could occur in the budget year or 2004-05?**

## **6. Implementation of Proposition 50—Chapters 3, 4 & 6—by the DHS**

**Background on DHS’ Drinking Water Program:** The DHS has been responsible for regulating and permitting public water systems since 1915. **The Drinking Water Program provides for ongoing surveillance and inspection of public water systems, issues operational permits to the systems, ensures water quality monitoring is conducted and takes enforcement actions when violations occur. The program oversees the activities of about 8,500 public water systems that serve more than 34 million Californians (about 98 percent of the population).**

The DHS is designated by the federal Environmental Protection Agency as the primacy agency responsible for the administration of the federal Safe Drinking Water Act. Under the federal Safe Drinking Water Act, California receives funding to finance low-interest loans and grants for public water system infrastructure improvements. To-date, California has received five federal capitalization grants totaling about \$402 million (federal funds). **In order to draw down these federal capitalization grants, the state must provide a 20 percent match. Proposition 13 bond funds have been used as the state match for this purpose for the past three years. The state match for future capitalization grants will be provided by Proposition 50, as provided for in the Proposition.**

**Background on Proposition 50 and Chapters Applicable to the DHS Drinking Water Program:** Proposition 50—the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002—was approved by the voters to provide **\$3.4 billion** in funds to a consortium of state agencies and departments to address a wide continuum of water quality issues. The bond measure contains 11 chapters, or subdivisions, which delineates the funding level to be provided over the course of the bond and the activities and functions which are to be addressed. It also contains language throughout the measure that provides authority to the Legislature to “*enact such legislation as is necessary*” to implement certain chapters.

Several chapters within the Proposition 50 bond measure pertain to functions conducted by the DHS as it pertains to the Drinking Water Program. **The DHS anticipates receiving as much as \$528 million over the course of the bond measure. This potential funding includes the following:**

- **A. Chapter 3—Water Security (\$43.2 million proposed for DHS):** Proposition 50 provides \$50 million for functions that pertain to water security, including the following:
  - (1) Monitoring and early warning systems;
  - (2) Fencing;
  - (3) Protective structures;
  - (4) Contamination treatment facilities;
  - (5) Emergency interconnections;
  - (6) Communications systems; and
  - (7) Other projects designed to prevent damage to water treatment, distribution, and supply facilities.

Though the bond does not identify the implementing agency for water security functions, the Administration suggests utilizing the DHS and Department of Water Resources (DWR) for this chapter. The Administration proposes to provide the remaining \$6.8 million of the bonds' \$50 million total to the DWR for dam security.

- **B....Chapter 4—Safe Drinking Water (\$435 million proposed for DHS):** Proposition 50 provides that \$435 million be available to the DHS for expenditure for grants and loans for infrastructure improvements and related actions to meet safe drinking water standards, **including the following types of projects:**
  - (1) Grants to small community drinking water systems to upgrade monitoring, treatment or distribution infrastructure;
  - (2) Grants to finance development and demonstration of new technologies and related facilities for water contaminant removal and treatment;
  - (3) Grants for community water quality;
  - (4) Grants for drinking water source protection;
  - (5) Grants for treatment facilities necessary to meet disinfectant by-product safe drinking water standards; and
  - (6) Loans pursuant to the Safe Drinking Water State Revolving Fund (i.e., the existing program whereby the state draws down an 80 percent federal match).

In addition the Proposition requires that not less than 60 percent of the bond funds pursuant to Chapter 4 be available for grants to Southern California water agencies to assist in meeting the state's commitment to reduce Colorado River water use as specified.

- **C. Chapter 6—Contaminant and Salt Removal Technologies (\$50 million Transfer from DWR to DHS):** Proposition 50 provides \$100 million to the DWR for grants for the following projects: (1) desalination of ocean or brackish waters; (2) pilot and demonstration projects for treatment and removal of specified contaminants; and (3) drinking water disinfecting projects using ultraviolet technology and ozone treatment.

According to the DHS, the DWR will be providing the DHS about \$50 million (total over 4 years) through an Interagency Agreement to (1) fulfill the bond measure requirements regarding pilot and demonstration projects for treatment and removal of contaminants, including perchlorate, chromium, heavy metals, MTBE, pesticides and herbicides, radionuclides and pharmaceuticals, and (2) drinking water disinfecting projects.

**Governor's Proposed Budget and Finance Letter:** The Administration proposes to (1) appropriate funds directly to the DHS for Chapter 3 and Chapter 4 of Proposition 50, (2) utilize a pre-application, application and priority listing process (*described below*) to allocate funds, and (3) provide 15.5 positions to the DHS to conduct various activities associated with implementation of the bond.

The Administration proposes to appropriate funds directly to the DHS as follows:

<b><i>Chapter 3 Water Security</i></b>	<b><u>2003-04</u></b>	<b><u>2004-05</u></b>	<b><u>2005-06</u></b>	<b><u>2006-07</u></b>	<b><u>Year TOTALS</u></b>
State Operations (two positions)	\$250,000	\$250,000	\$250,000	\$250,000	<b>\$1,000,000</b>
Local Assistance	10,112,000	10,112,000	10,112,000	10,112,000	<b>\$40,450,000</b>
Bond Costs (@3.5%)	438,000	438,000	438,000	436,000	<b>\$1,750,000</b>
Annual TOTALS	<b>\$10,800,000</b>	<b>\$10,800,000</b>	<b>\$10,800,000</b>	<b>\$10,800,000</b>	<b>\$43,200,000</b>
<b><i>Chapter 4 Safe Drinking Water</i></b>					
State Operations (13.5 positions)	\$1,855,000	\$1,855,000	\$1,855,000	\$1,855,000	<b>\$7,420,000</b>
Local Assistance (Total): (includes 5 <sup>th</sup> year as shown)	(101,839,000)	(97,839,000)	(97,839,000)	(97,838,000) & (17,000,000)	<b>(\$412,355,000)</b>
• 1. Grants	15,589,000	15,589,000	15,589,000	15,588,000	<b>\$62,355,000</b>
• 2. Colorado River Water Reduction	65,250,000	65,250,000	65,250,000	65,250,000	<b>\$261,000,000</b>
• 3. State Match for Capitalization Grant (includes 5 <sup>th</sup> year as shown)	21,000,000	17,000,000	17,000,000	17,000,000 & 17,000,000 for year 5	<b>\$89,000,000</b>
Annual TOTALS	\$107,500,000	\$103,500,000	\$103,500,000	\$103,500,000 & 17,000,000 for year 5	<b>\$435,000,000</b>
GRAND TOTALS	\$118,300,000	\$114,300,000	\$114,300,000	\$114,300,000 & 17,000,000 for year 5	<b><u>\$478,200,000</u></b>

It should be noted that the appropriation levels proposed in the table above can be modified by the Legislature on an annual basis through the Budget Act, if desired.

**Proposed DHS Process for Allocation of Grants & State Staffing Request:** The DHS states it intends to use the same process for allocating funds to public water systems under **both** Chapter 3 and Chapter 4.

Specifically, they outline their process to be as follows:

- DHS will develop, distribute, review and rank **pre-applications** received from public water systems for the projects.
- DHS will create a “Project Priority List” based on the priority ranking of the projects.
- Selected applicants will be invited to submit full project applications.
- DHS staff will review and evaluate the applications and prepare a “Technical Report” for each project. The plans and specifications for each project will also be reviewed and evaluated by DHS staff.
- DHS staff will also be responsible for conducting project construction inspections and determining the cost eligibility of the applicant’s invoices for payment.
- DHS staff will also conduct workshops to inform the public about guidelines.

The following chart outlines the DHS’ request for 15.5 new positions for 2003-04.

<b>Classification</b>	<b>Chapter 3</b>	<b>Chapter 4</b>	<b>Total</b>
Environmental Program Manager II		1	1
Supervising Sanitary Engineer		1	1
Senior Sanitary Engineer		1	1
Associate Sanitary Engineer	1	1	1
Sanitary Engineer	1	1	1
Staff Environmental Scientist		1	1
Environmental Scientist		1	1
Staff Service Manager II		1	1
Associate Governmental Prog Analyst		1	1
Staff Services Analyst		1	1
Office Technician		1.5	1.5
Associate Account Analyst		1	1
Accountant I		1	1
<b>TOTAL DHS POSITIONS</b>	<b>2</b>	<b>13.5</b>	<b>15.5</b>

**Senate Bill 21 (Machado):** SB 21 (Machado) is scheduled to be discussed in Senate Committee on Environmental Quality on May 12<sup>th</sup> (today). As introduced, SB 21 (Machado), would **(1)** clarify specific provisions and terms in order to administer and implement Proposition 50, and **(2)** provide guidance via a statement of legislative preferences for financing projects under Proposition 50.

Among other things, the bill requires the DHS to: **(1)** consult with a public advisory committee composed of certain representatives to provide assistance in implementing the Proposition; **(2)** establish guidelines for the purposes of implementing the act; **(3)** award grants on a competitive basis; **(4)** provide for a preference for grants to be awarded to economically disadvantaged communities and severely economically disadvantaged communities; **(5)** require matching funds but allow for a waiver process of this requirement if the entity is an economically disadvantaged community or severely economically disadvantaged community; **(6)** require the

DHS to inform the Legislature of its guidelines; **(7)** inform the Legislature as to the allocation of the bond funds, including the amount awarded to each recipient.

**Subcommittee Staff Comment:** Proposition 50 represents a substantial investment towards the improvement of public water systems and water quality. It will be a considerable undertaking for the DHS to proceed with the implementation of Chapters 3, 4 and 6.

**As such, it is recommended for the Subcommittee to adopt “placeholder” trailer bill language in a broad manner to enable discussions to continue through the policy committee process until such time that trailer bill language is needed to proceed with finalizing the budget process (i.e., early June). Specifically, it is suggested to adopt placeholder trailer bill language that would require the DHS to do the following:**

- (1)** Use a public process for obtaining assistance with implementation;
- (2)** Establish guidelines for the purposes of implementing the act;
- (3)** Codify their process for making awards (i.e., use of the pre-application process, application process, and priority ranking);
- (4)** Award grants on a competitive basis;
- (5)** Provide for a preference for grants to be awarded to economically disadvantaged communities and severely economically disadvantaged communities;
- (6)** Require local matching funds in order to receive bond grant funds but allow for a waiver process of this requirement if the entity is an economically disadvantaged community or severely economically disadvantaged community or have a similar compelling need;
- (7)** Inform the Legislature of its guidelines; and
- (8)** Provide the Legislature with annual updates on the allocation of the grant awards and their expenditure.

**Further, it is suggested to **(1)** appropriate local assistance funds for the DHS for 2003-04 as suggested by the Administration (for Chapters 3, 4 and 6), and **(2)** appropriate state support funds to hire 15.5 positions.**

**Subcommittee Request and Questions:** The Subcommittee has requested the DHS to respond to the following questions:

- 1. Please describe how the DHS intends to implement Chapter 4 of Proposition 50, including any relevant details regarding the proposed pre-application, application and ranking process, as well as public involvement.**
- 2. What criteria will the DHS use for the purposes of developing the Chapter 4 rankings? Will any priority be given to “economically disadvantaged” communities?**
- 3. Does the DHS intend to require any local match in order for a water system to receive funding under Chapter 4?**
- 4. Does the DHS intend to utilize any dollar cap in allocating funds under Chapter 4?**
- 5. What timeframes does the DHS envision for allocating funds regarding Chapter 4 projects in the first year (2003-04)?**

- 6. Does the DHS envision *any* separate or distinct process for allocating grants to Southern California water agencies to assist in meeting the state's commitment to reduce Colorado River water use as required in the bond?
- 7. Please discuss how the DHS intends to allocate the funds made available under Chapter 6 (i.e., the \$50 million over 4 years to be done through an interagency agreement between the DWR and DHS)?
- 8. Please discuss how the DHS intend to implement the Chapter 3 provisions regarding water security.

**Budget Issue:** Does the Subcommittee want to (1) adopt the Administration's proposal, along with **placeholder trailer bill language** as suggested by Subcommittee staff, or (2) modify the Administration's proposal in some other fashion?

**7. Discussion Regarding the Bureau of State Audits Report**  
**(See Summary of Recommendations from BSA Report) (Informational Item)**

**Background On Medi-Cal Drug Program:** Nationwide pharmaceutical costs are one of the fastest growing components of all health care. Generally, the growth is mainly due to technological advances in, and cost of, the development of new pharmaceutical products. Numerous states have recently enacted changes to their Medicaid Programs (Medi-Cal in California) in order to control costs.

California has historically had one of the least expensive Medicaid pharmaceutical programs in the nation. **The Medi-Cal fee-for-service Drug Program controls costs through two major components—(1) a Medi-Cal List of Contract Drugs (or formulary), and (2) contracts with about 100 pharmaceutical manufacturers for supplemental rebates. Drugs listed on the formulary are available without prior authorization. In turn, the manufacturers agree to provide certain rebates mandated by both the federal and state government.**

**The state supplemental drug rebates are negotiated by the DHS with manufacturers to provide additional drug rebates above the federal rebate levels. In the Governor's January budget, it is estimated that the baseline state supplemental rebates will save \$354.7 million (\$177.3 million General Fund). With respect to the federal rebates, the budget assumes savings of \$922.1 million (\$459.6 million General Fund).**

**In total, the Governor's January budget assumes expenditures of \$2.7 billion (\$1.3 billion General Fund) for drug expenditures in Medi-Cal.**

**The Budget Act of 2002 made substantial changes to the program. It was assumed that the DHS could obtain about \$104 million in additional General Fund savings through a variety of proposals.**

Though much has been done, the Bureau of State Audits notes more can, and should be, accomplished to generate additional General Fund savings from this programmatic area.

**Bureau of State Audits Report and Subcommittee Request:** The Bureau of State Audits (BSA) just released (April 30, 2003) a comprehensive audit regarding the Medi-Cal Drug Program. It contains considerable recommendations regarding program improvements.

The Subcommittee has requested the *BSA to specifically focus on the following topic areas within their analysis and report. In addition, the Subcommittee has requested the DHS to respond to each topic area and articulate potential areas for improvement and additional savings. (Suggested Format: The BSA will present the key aspects of each of these topics, along with any recommendations for improvement, and the DHS will please respond where applicable.)*

- **Need for Hiring Pharmacy Staff:** The BSA notes that the DHS should be doing more to fill vacant Pharmacy positions. The DHS has taken some action to be more aggressive in their efforts, including obtaining DPA approval for hiring bonuses and related items.
- **Collection of Existing Rebates and Contract Issues:** There are three key issues here. **First, the state enacted trailer bill legislation through the Budget Act of 2002 to prevent the loss of state drug rebates if manufacturers recalculate downward their average manufacturers price (AMP) or their “best price” as defined in federal law.** This was done because California was losing rebate dollars due to manufacturers retroactively making changes, and therefore, reducing rebates. **The BSA contends that federal CMS approval is needed in order to make this state law change more effective.**

**Second,** the BSA notes that the state has a huge amount—**over \$200 million—in uncollected rebates that are owed to the state.** The DHS contends that a portion of these uncollected rebates are being discussed with manufacturers who have disputes about what is owed. Further, the DHS notes that more staff and better tracking of rebates are needed.

**Third,** the BSA notes that there have been some rebate contracts that have expired, so the state cannot collect rebates from those drugs that are provided after that expiration date.

- **Therapeutic Category Reviews:** The DHS has conducted several TCRs over the years which have resulted in considerable savings. In essence, a TCR assesses the cost-effectiveness of all drugs in a therapeutic or chemical drug classification. **The BSA notes that the DHS needs to conduct more reviews and that considerable savings could be achieved through this process.**

Under the TCR process, the Medi-Cal Advisory Committee evaluates the drugs within a category (such as nonsteroidal anti-inflammatory) using criteria including safety, effectiveness, essential need, cost and misuse potential. Based on this evaluation, the Committee makes recommendations to the DHS on which drugs should be included on the formulary. The DHS then reviews these recommendations, obtains input from the manufacturer's of the drugs, reviews cost data, considers other sources of information and

then submits recommendations for TCRs to the Director of the DHS for a final determination. Drugs can then be added or deleted from the List of Contract Drugs.

- **Maximum Allowable Ingredient Cost (MAIC):** The Maximum Allowable Ingredient Cost (MAIC) is the maximum drug ingredient cost set by the DHS for a generic drug using a reference product that has been determined to be generally equivalent in quality to those products used by physicians throughout the state. The Budget Act of 2002 changed the existing methodology for establishing the MAIC. **The BSA contends that the DHS has not fully implemented this change and that additional action is needed (i.e., pricing information is needed from the wholesalers, and the DHS needs to dedicate staff towards this effort.)**
- **Utilization of Step Therapies:** Federal law requires states to have a prospective “drug utilization review” (DUR) process, which occurs before a pharmacist dispenses a drug to a Medi-Cal recipient, typically at a pharmacy. A prospective DUR process must include screening for potential drug therapy problems, such as drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse and misuse.

**The DHS uses a computerized system for its prospective DUR process (using “soft” edits and “hard” edits).** When a Medi-Cal recipient presents a prescription to a pharmacist, the pharmacist inputs the prescription into an on-line claims processing system that, for selected drugs, will notify the pharmacist of potential problems. **The BSA notes that California employs more edits than do many states, but there still could be more done which would result in cost savings, provide better quality of care, and mitigate any potential fraud.**

- **Generic Drug Contracting:** The Budget Act of 2002 provided the DHS with authority to contract with generic drug manufacturers. The Budget Act of 2002 assumed savings of \$27 million (General Fund) from this process. The BSA contends that the DHS has not adequately proceeded with this process.

**Budget Issue: What actions can be taken in order to operate a more cost-beneficial Medi-Cal Drug Program?**